

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY  
as Administrator for RELIANCE INSURANCE  
COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – STATE OF NEW  
YORK, TDX CONSTRUCTION CORP., and KOHN  
PEDERSEN FOX ASSOCIATES, P.C.,

Defendants.

AND THIRD AND FOURTH PARTY ACTIONS.

Case No. 07 Civ. 6915 (DLC)

**ANSWER OF DASNY AND  
TDX TO CROSS-CLAIM  
OF THIRD-PARTY  
DEFENDANT COSENTINI  
ASSOCIATES, INC.**

Defendants/Third-Party Plaintiffs Dormitory Authority of the State of New York ("DASNY") and TDX Construction Corp. ("TDX"), by their attorneys, Holland & Knight LLP, answer the cross-claim of Third-Party Defendant Cosentini Associates, Inc. ("Cosentini"), dated March 26, 2008 ("Cosentini's Cross-Claim"), as follows:

1. The allegations contained in paragraph 46 of Cosentini's Cross-Claim state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX deny each and every allegation of paragraph 46 with respect to the alleged liability of DASNY and TDX, and state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations therein regarding the alleged liability of all other parties against whom the counterclaim/cross-claim is asserted.

2. The allegations contained in paragraph 47 of Cosentini's Cross-Claim state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX deny each and every allegation of paragraph 47 with respect to the alleged liability of DASNY and TDX, and state that they are without knowledge or information sufficient to form a

belief as to the truth of the allegations therein regarding the alleged liability of all other parties against whom the counterclaim/cross-claim is asserted.

FIRST AFFIRMATIVE DEFENSE

3. Cosentini's Cross-Claim fails to state a cause of action against DASNY upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

4. Cosentini's Cross-Claim fails to state a cause of action against TDX upon which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

5. Cosentini is not entitled to common law indemnity, because the third-party complaint alleges that Cosentini itself was negligent and/or breached its contract(s) with the third-party plaintiff.

FOURTH AFFIRMATIVE DEFENSE

6. There is no contract between DASNY and Cosentini which would entitle Cosentini to contractual indemnity from DASNY.

FIFTH AFFIRMATIVE DEFENSE

7. There is no contract between TDX and Cosentini which would entitle Cosentini to contractual indemnity from TDX.

SIXTH AFFIRMATIVE DEFENSE

8. Any damages that have been or may be sustained by Cosentini were caused in whole or in part by Cosentini's own culpable conduct, as a result of which Cosentini's claims are therefore barred or diminished in the proportion that such conduct caused said damages.

SEVENTH AFFIRMATIVE DEFENSE

9. Cosentini's Cross-Claims may be barred, in whole or in part, by additional defenses that cannot be articulated due to the generality of the Cross-Claims, the fact that discovery is not complete, or other presently undeveloped information. Accordingly, DASNY and TDX reserve their right to amend and/or supplement the foregoing defenses and to raise additional defenses as this action progresses, to the fullest extent permitted by the Federal Rules of Civil Procedure.

**WHEREFORE**, DASNY and TDX demand judgment dismissing Cosentini's Cross-Claim in its entirety as against them, together with the costs and disbursements of this action, attorneys' fees, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
April 25, 2008

HOLLAND & KNIGHT LLP

By: Timothy B. Froessel  
Timothy B. Froessel  
195 Broadway  
New York, New York 10007  
(212) 513-3200

Stephen B. Shapiro  
HOLLAND & KNIGHT LLP  
2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, D.C. 20006  
(202) 955-3000

*Attorneys for Defendants/Third-Party Plaintiffs  
Dormitory Authority of the State of New York  
and TDX Construction Corp.*

To: All Counsel of Record